

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KEVIN OMAR HARPER,

Plaintiff,

v.

Case No. 20-cv-493-pp

PAUL HARDING,

Defendant.

**ORDER DENYING PLAINTIFF'S MOTION FOR COURT INTERVENTION
(DKT. NO. 106)**

The plaintiff has filed a “Motion for Court Intervention,” asking the court order his institution to allow him to use a pen insert so he can file a sur-reply to the defendant’s summary judgment reply brief. Dkt. No. 106. He states that he was placed in segregation and that prison officials permit him only a rubber pencil that is sharpened once per week, and that writing at length with the rubber pencil causes extreme pain in his hand and is time-consuming. *Id.* at 1.

The court’s local rules do not provide for sur-replies. C.f. Pike v. Caldera, 188 F.R.D. 519, 537 (S.D. Ind. 1999) (noting that court’s local rule allowing for sur-replies when there are new arguments or evidence presented in a reply brief). This court’s local rules require a party to file a proposed sur-reply as an attachment to a motion for permission to file a sur-reply. See Civil Local Rule 7(i) (E.D. Wis.). Even if the plaintiff had filed a motion asking for permission to file a sur-reply, the court would deny the motion because the plaintiff does not allege, and the court cannot find, that the defendant has proposed new

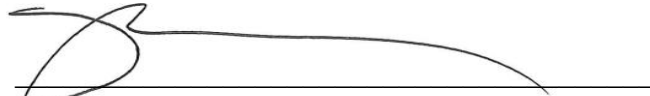
material facts or evidence in his reply brief that would warrant a sur-reply from the plaintiff. See Slaughter v. Lutsey, No. 17-C-1448, 2019 WL 11502919, at *1 (E.D. Wis. June 14, 2019), aff'd, 805 F. App'x 424 (7th Cir. 2020) (citations omitted). The court will deny the plaintiff's motion for court intervention for a pen so he can file a sur-reply.

The court will address the defendant's fully briefed motion for summary judgment in a subsequent order.

The court **DENIES** the plaintiff's motion for court intervention. Dkt. No. 106.

Dated in Milwaukee, Wisconsin this 19th day of August, 2022.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge